

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 7404 of 1996

Oral order:

The petitioner joined as Assistant Lecturer in the 3rd respondent-polytechnic on 31.08.2001. Upon successful completion of probation, his services were regularized as Assistant Lecturer (re-designated as Associate Lecturer). While so, the Government issued orders in G.O. Ms. No. 948, dated 23.12.1982 unifying the posts of Demonstrators and Assistant Lecturers into one cadre, i.e., Lecturers. The petitioner states that as per the said G.O., Assistant Lecturers holding degrees with three or more years of service, are entitled to re-designation of their posts as Lecturers.

The petitioner states that since he was working as Assistant Lecturer, he made a representation to the 3rd respondent-Polytechnic, requesting to implement the said G.O., and the 3rd respondent-Polytechnic vide proceedings dated 16.12.1992 implemented the said G.O. and promoted him as Lecturer in Chemistry. The petitioner completed probation period of one year in the promoted post. The petitioner states that while he was working in the said post, the 3rd respondent issued proceedings dated 28.02.1994, reverting him to the post of Assistant Lecturer.

Assailing the said proceedings, the petitioner states that he filed writ petition in W.P. No. 3811 of 1994, and this Court by order dated 12.07.1994, set aside the said proceedings holding that the same were issued in violation of the principles of natural justice, and granted liberty to the 3rd respondent to take action afresh. In pursuance of the

said order, the 3rd respondent issued notice dated 18.10.1994 calling upon the petitioner to show cause as to why the promotion given to him on 16.12.1992 should not be cancelled.

While so, the petitioner states that he filed appeal in W.A. No. 1422 of 1994 assailing the order in the writ petition, and *inter alia* sought the relief of declaration that the G.O. in question was applicable to him also. However, a Division Bench of this Court vide judgment dated 25.11.1994, held that since the impugned proceedings were set aside, it was not proper to sit in appeal and give a declaratory relief about the applicability of the G.O. in question, and dismissed the appeal, granting a week's time to the petitioner to submit his reply to the show cause notice.

Pursuant to the judgment of the Division Bench, the petitioner states he submitted his explanation to the show cause notice, but the 3rd respondent without considering the same, has upheld the order of revision, and assailing the same, he filed review petition, and the 2nd respondent-Commissioner of Technical Education, vide his proceedings dated 03.02.1996 informed the petitioner that his review petition has been rejected by the Government vide orders passed in Memo dated 03.01.1996. Hence the petitioner filed the present writ petition assailing the orders dated 13.12.1994 of the 3rd respondent and the order dated 03.02.1996 passed by the 2nd respondent.

The 3rd respondent filed counter-affidavit stating that G.O. No. 948, dated 23.12.1982 has no application to the petitioner. The learned Government Pleader for Higher Education appearing on behalf of the 1st and 2nd respondents also submitted that the G.O. has no application to the petitioner, and in support of such a contention,

she relied on the clarificatory orders issued by the Government in Memo dated 16.08.1990, wherein it was clarified that the G.O. is applicable only to staff working in Government Polytechnics, and therefore, the orders are not applicable to private un-aided polytechnics. She submitted that similar issue, as is involved in this writ petition, came for consideration by this Court in W.P. No. 2852 of 1991, and this Court by orders dated 09.07.1996, dismissed the same. Following the said judgment, another writ petition in W.P. No. 12396 of 1990, was dismissed by orders dated 21.03.1997. Aggrieved by the judgment dated 21.03.1997, passed in W.P. No. 12396 of 1990, the petitioners therein filed appeal in W.A. No. 390 of 1997, and a Division Bench of this Court extending the principle of equal pay for equal work and following the judgment of the apex Court in **Krishnamacharyulu v. Sri Venkateswara Hindu College of Engineering**^[1], allowed the writ appeal, set aside the order in the writ petition, and consequently allowed the writ petition also.

Heard the learned counsel for the petitioner and the learned Government Pleader for Higher Education for the 1st and 2nd respondents and the learned Standing Counsel for the 3rd respondent.

Though the learned Government Pleader for Higher Education for the 1st and 2nd respondents and the learned Standing Counsel for the 3rd respondent contend that G.O. Ms. No. 948, dated 23.12.1982, is applicable only in respect of government polytechnics and it is not applicable to private polytechnics, and as such, the petitioner who is working in a private polytechnic, is not entitled to the benefit of the said G.O., the fact remains, which in fact, is not disputed by the learned Government Pleader for Higher Education for the 1st and 2nd respondent as also the learned Standing Counsel for the 3rd

respondent that a Division Bench of this Court having considered similar issue, namely the applicability or otherwise of G.O. Ms. No. 948, dated 23.12.1982 to employees working in private polytechnics in W.A. No. 390 of 1997, by judgment dated 29.04.1997, extending the principle of 'equal pay for equal work' and following the judgment of the apex Court in **Krishnamacharyulu v. Sri Venkateswara Hindu College of Engineering**, allowed the writ appeal, set aside the judgment in the writ petition, and consequently allowed the writ petition. When once the Division Bench of this Court vide its judgment dated 29.04.1997 passed in W.A. No. 390 of 1997, had by applying the principle of 'equal pay for equal work' allowed similar relief, as is prayed for by the petitioner in the present writ petition, the respondents cannot contend that G.O. Ms. No. 948, dated 23.12.1982 is not applicable to the petitioner.

In the above view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The impugned order 13.12.1994 passed by the 3rd respondent and the orders dated 03.02.1996, passed by the 2nd respondent, are set aside. The respondents are directed to reconsider the case of the petitioner in the light of judgment dated 29.04.1997, passed by a Division Bench of this Court in W.A. No. 390 of 1997, and pass appropriate speaking orders. Till the case of the petitioner, as directed above, is reconsidered, the respondents shall continue the petitioner as Lecturer.

Accordingly, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Dated: 24.01.2007.
KSR

[\[1\]](#) 1997 (2) Scale 538